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ORIGINAL EDITION,
COPIED FROM THE MINUTES TAKEN IN COURT.
WITH CONSIDERABLE ADDITIONS, CORRECTIONS,
AND ALTERATIONS.

4817. L. 2
THE
TRIAL
OF

THOMAS PAINÉ,

K
FOR CERTAIN
FALSE, WICKED, SCANDALOUS and SEDITIOUS

L I B E L S

INSERTED IN THE

SECOND PART OF THE RIGHTS OF MAN,

BEFORE

The Right Hon. LORD KENYON and a SPECIAL JURY.

AT GUILDHALL,

ON TUESDAY THE 18th DECEMBER, 1792.

THE FOURTH EDITION.

TAKEN IN SHORT HAND BY AN EMINENT ADVOCATE.

LONDON:
PRINTED FOR W. RICHARDSON, ROYAL-EXCHANGE;
J. PARSONS, C. STALKER, PATERNOSTER-ROW;
MRS. HARLOW, PALL-MALL;
AND WILLIAM LANE, LEADENHALL-STREET.

[PRICE ONE SHILLING.]

ДРЕВНЕЕ ПАМЯТНОЕ
ЧИСЛОВОЕ МНОГОЧЛЕННОЕ УРАВНЕНИЕ
С ЧЕТЫРЕМ СЛОЖНЫМИ КОРНЕЙ

ДАЛЕКИХ
ЗИДОВ

ЭИДАЧИ ВАНСОН

21 АПРЕЛЯ 1897

БИБЛИО

БИБЛИОГРАФИЯ

КАНДИ СИНОДА



T R I A L
O F
T H O M A S P A I N E ,
A T
G U I L D H A L L ,
B E F O R E L O R D K E N Y O N ,
A N D A S P E C I A L J U R Y .

JOHN CAMPBELL, Esq. Foreman.

JOHN LIGHTFOOT,
CHRISTOPHER TADDY,
ROBERT OLIPHANT,
CORNELIUS DONOVAN,
ROBERT ROLLESTON,
JOHN LUBBOCK,

RICHARD TUGWELL,
JOHN PORTER,
THOMAS DRUCE,
ISAAC RAILTON,
HENRY EVANS,
Merchants.

C O U N C I L .

For the PROSECUTION.

The ATTORNEY GENERAL,
The SOLICITOR GENERAL,
Mr. BEARCROFT,
Mr. WOOD,
Mr. PERCIVAL.

For THOMAS PAINÉ.

Mr. ERSKINE,
Mr. PIGOTT,
AND
Mr. SHEPHERD.

S O L I C I T O R S .

For the PROSECUTION.

Messrs. CHAMBERLAYNE and
WHITE,
Solicitors to the Treasury.

For THOMAS PAINÉ.

Mr. BONNEY.

The KING *versus* Thomas Paine.

THIS was a *criminal Information* filed against the Defendant, for several Libels contained in a Publication, called “*The Rights of Man*, Part the Second, combining Principle and Practice, by Thomas Paine, Secretary for Foreign Affairs to Congress, in the American War, and Author of the Work entitled *Common Sense*, and the First Part of the *Rights of Man*. ”

The information recited several passages from the work, which passages were, in the inuendoes, alledged to be *scandalous, wicked and seditious* libels on the Constitution of the Country.

The HONOURABLE Mr. PERCIVAL,

Opened the pleading, on the part of the Crown.

This, Gentlemen of the Jury, is an Information against Thomas Paine, for that he being a person of a wicked, malicious, and seditious disposition; and wishing to introduce disorder

disorder and confusion, and to cause it to be believed, that the Crown of this kingdom was contrary to the Rights of the Inhabitants of this kingdom; and to cause it to be believed also, that the bill of Rights was a bill of Wrongs and Insults; all tending to bring the government of this country into contempt, and endeavouring to cause it to be believed, that the Parliament of this country was openly corrupt in the face of day; and in order to withdraw the affection of the people of this kingdom, against the law and constitution of this country; that he, Thomas Paine, wishing and intending this mischief, did, on the 16th of February, 1791, wickedly, falsely, maliciously, scandalously, and seditiously publish a certain book, called The Second Part of Rights of Man, signed Thomas Paine, containing many false, wicked, scandalous, malicious, and seditious assertions; with which he should not trouble the Jury, as they would have them from the Attorney General. The Defendant had pleaded Not Guilty, upon which issue was joined.

The

The ATTORNEY GENERAL.

Gentlemen of the Jury,

If this were not a case that has been rendered more extraordinary by the curiosity and expectation it has excited, I should content myself, Gentlemen of the Jury, with a bare recital of the libellous matter contained in the information, and submit it to your judgment to pronounce a verdict : but, gentlemen, such mischievous consequences have resulted from it—consequences so injurious to the peace and welfare of the country, and so inimical to the security of a constitution that has been transmitted to us almost from time immemorial, that I cannot, consistent with the sense I entertain of my duty, suffer myself to be so brief upon the subject.

Gentlemen, it has been rumoured abroad, that the prosecution does not receive my approbation. I shall obviate that rumour, by declaring it to be wholly false and entirely unfounded : Indeed I should deserve to be expelled society, if for one moment I could entertain a wish to hesitate in bringing this infamous

famous calumniator to public justice; I should indeed deserve the reprobation of all good men, if I could pause a moment in the execution of a duty to the most benign Sovereign that fills the throne, and to all who conceive that the Constitution of Great-Britain deserves the support of all who live under it.

When the first part of this publication, called the Rights of Man appeared, I certainly was of opinion that it was highly reprehensible, but imagining that as it would be confined to the judicious and the discriminating, they would refute the positions laid down in the work, as they proceeded in the perusal of it, I delayed laying it before a jury of the country. Perhaps this was reprehensible, but I trust that you will deem the motives that influenced me in that instance, are a sufficient apology.

But as soon as the second part of this work was ushered into the world; as soon as I beheld the activity employed in the circulation of it—when I found that it was printed at a very low price, for the express purpose of its being

Being read by the lowest classes of the people —when I learned that to delude and deceive even children, sweetmeats were enclosed in this motly definition of the Rights of Man: I say, gentlemen, as soon as I was informed of these circumstances, I did not delay one moment—I did not hesitate one moment in putting the very reprehensible transaction in a judicial process; and on the very first day of term I placed a charge against Mr. Paine on the record.

Gentlemen, I have said before that the book could not have any injurious tendency on the minds of the judicious and the discriminating reader. If the circulation had been confined to persons of such a description, I should have been dumb for ever—I should laughed to scorn the attempts of Mr. Paine, well knowing that all his reward would be the detestation and contempt of all whose good opinions are worth preserving: but, gentlemen, the lower orders of the people, to whom judgment and discrimination are wanting—they who are easily persuaded by artful position, and artful theories,

theories, they were not able to discover the dress of the publication—they, gentlemen, possessed not the power of discussing abstract propositions, or of finding an antidote against the baneful poison.

Gentlemen, it will be necessary for me to enter into a description of the libels contained in the second part of the Rights of Man.

THE FIRST LIBEL,

(Contained in page 21 of the publication.)

“ All hereditary government is in its nature
 “ tyranny. An heritable crown, or an heri-
 “ table throne, or by what other fanciful
 “ name such things may be called, have no
 “ other significant appellation, than that
 “ mankind are heritable property. To in-
 “ herit a government, is to inherit the
 “ people, as if they were flocks and herds.”

This conveys a deliberate intention to vilify, degrade, and thereby to bring into contempt,

tempt, the Constitution and the System of that Government under which we have the happiness to live. If you will turn, gentlemen, to the libel in question, you will find that Mr. Paine wishes to shake off the regal office of chief magistrate—to cram this proposition down the throats of the people, and to make them reason in this manner: “ That under a regal Government they were slaves, and ought to release themselves from a disgraceful state of bondage.” Here, gentlemen, the regal office is considered as productive of tyranny, and here the best of Monarchs is considered as possessing an heritage of the people, “ as if they were flocks and herds.” But the fact is in law, that the king does not possess an inheritance of this nature—He possesses an inheritance of the crown ; he inherits no persons ; we are not in a state of villanage ; he inherits the office ; but I deny that he does that of the people.

THE SECOND LIBEL,

(Contained in Page 47.)

“ The Convention met at Philadelphia, [in
 “ May 1787, of which General Washington
 “ was elected President. He was not at
 “ that time connected with any of the State
 “ Governments, or with Congress. He de-
 “ livered up his commission when the war
 “ ended, and since then had lived a private
 “ citizen.

“ The Convention went deeply into all
 “ the subjects; and having, after a variety
 “ of debate and investigation, agreed among
 “ themselves upon the several parts of a
 “ federal constitution, the next question was,
 “ the manner of giving it authority and
 “ practice.

“ For this purpose, they did not, like a
 “ cabal of courtiers, send for a Dutch Stadt-
 “ holder, or a German Elector; but they
 “ referred the whole matter to the sense and
 “ interest of the country.”

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This

This relates to the Convention at Philadelphia. If the defendant had confined his observations to that convention, I could not have complained of his conduct; but he has thrust in an observation against the Act of Settlement, which is perfectly unconnected with the subject in discussion, and not at all dependent on the context.

THE THIRD LIBEL,

(Contained in Page 52 and 53.)

" The history of the Edwards and the
 " Henries, and up to the commencement of
 " the Stuarts, exhibits as many instances of
 " tyranny, as could be acted within the
 " limits to which the nation had restricted
 " it. The Stuarts endeavoured to pass those
 " limits, and their fate is well known. In
 " all those instances, we see nothing of a
 " constitution, but only of restrictions on
 " assumed power.

" After this another William, descended
 " from the same stock, and claiming from

" the same origin, gained possession ; and of
" the two evils, *James* and *William*, the na-
" tion preferred what it thought the least,
" since from circumstances it must take one.
" The act, called the Bill of Rights, comes
" here into view. What is it, but a bar-
" gain, which the parts of the government
" made with each other to divide powers,
" profits and privileges ? You shall have so
" much, and I will have the rest ; and with
" respect to the nation, it said, *for your share,*
" *you shall have the right of petitioning.*

" This being the case, the Bill of Rights
" is more properly a Bill of Wrongs, and of
" insult. As to what is called the Conven-
" tion Parliament, it was a thing that made
" itself, and then made the authority by
" which it acted. A few persons got toge-
" ther and called themselves by that name.
" Several of them had never been elected, and
" none of them for the purpose.

" From the time of *William*, a species of
" government arose, issuing out of this coa-
" lition,

" lition Bill of Rights ; and more so, since
 " the corruption introduced at the Hanover
 " succession, by the agency of Walpole ; that
 " can be described by no other name than a
 " despotic legislation. Though the parts
 " may embarrass each other, the whole has
 " no bounds ; and the only right it acknow-
 " ledges out of itself, is the right of peti-
 " tioning. Where then is the Constitution
 " that either gives or restrains that power ?

" It is not because a part of the Govern-
 " ment is elective, that makes it less a de-
 " spotism, if the persons so elected, possess
 " afterwards, as a Parliament, unlimited
 " powers. Election, in this case, becomes
 " separated from representation, and the
 " candidates are candidates for despotism."

This declares that the government of the
Constitution is usurpation, and that there are no
 laws in England binding, but those which
 every man has within his own breast, with
 respect to religion or morality. This is a
 sweeping imputation, and tends to create a
 wish

wish to extirpate monarchy and aristocracy, not considering that the Constitution possesses such an infusion of the spirit of democracy, as prevents either monarchy or aristocracy from exercising the powers of tyranny. In saying that the progress of the English Government is not the progression of liberty, but of tyranny, he is guilty of the grossest libel on the founders of our system of jurisprudence, that ever was uttered by the mouth of man.

It is necessary here, gentlemen, that I should read to you the Bill of Rights, (*the Attorney General accordingly read it.*) This bill, the palladium of our liberties, the preservative of our rights;—this bill he has the audacity to call a Bill of Wrongs; and to assert, that the only good obtained by the people by that bill, is the *right of petitioning*.—Oh, gentlemen, that the malignant disposition of men should proceed to such lengths! Oh, gentlemen, that there should be men in the world who behold a beautiful edifice, but with the wish and inclination to destroy it! To them, all order is baneful,—all harmony disgusting;—to them,

the

the admirable symmetry, discoverable in the system that restrains licentiousness, while it gives ample range to liberty ;—to them, all the nice component parts of the building are objects of abhorrence. They breathe but to poison ;—they touch but to destroy.

THE FOURTH LIBEL.

(Contained in Page 56.)

“ The attention of the Government of
 “ England (for I rather chuse to call it by
 “ that name, than the English Government)
 “ appears, since its political connexion with
 “ Germany, to have been so compleatly en-
 “ grossed and absorbed by foreign affairs, and
 “ the means of raising taxes, that it seems
 “ to exist for no other purposes. Domestic
 “ concerns are neglected ; and with respect
 “ to regular law, there is no such thing.”

In this with a contemptuous parenthesis
 on the transverse of *Government of England*, in-
 stead of *English Government*, he asserts in direct
 terms, that the Government exists only for the
 purpose

purpose of levying taxes. All the regulations of commerce, and the encouragement given to trade, this man despises ; and for the reason, that they tend to confer blessings on the human race.

Gentlemen, I am addressing myself to merchants eminent in the city of London : I think I may appeal to the growing prosperity of this country, now the first commercial state in Europe ; I think I may appeal to you for the fallacy of this assertion.—Here was also a reflection of the most wicked sort on the government of this country, and an invitation to the people to rebel, by telling them there was scarcely such a thing as law in England.

THE FIFTH LIBEL.

(Contained in Page 63.)

“ With respect to the two Houses, of
 “ which the English Parliament is composed,
 “ they appear to be effectually influenced into
 “ one, and, as a legislature, to have no temper
 “ of their own. The minister, whoever he at
 “ any

" any time may be, touches it as with an
" opium wand, and it sleeps obedience.

" But if we look at the distinct abilities
" of the two Houses, the difference will ap-
" pear so great, as to shew the inconsistency
" of placing power where there can be no cer-
" tainty of the judgment to use it. Wretched
" as the state of representation is in England,
" it is manhood compared with what is called
" the House of Lords ; and so little is this
" nick-named House regarded, that the people
" scarcely enquire at any time what it is do-
" ing. It appears also to be the most under
" influence, and the furthest removed from
" the general interest of the nation."

This contains nothing but a dogma,
without a single argument to support it.—
All the component parts of the Government
are represented to fall into a deep sleep,
whenever " the Minister, whoever he at
" any time may be, touches it as with an
" opium wand."—The contempt he evinces
for the House of Lords is totally unfounded,
and

and daringly wicked. Gentlemen, you will recollect the brilliant characters that fill that House. All the great actions done by those noblemen and their ancestors, in defence of the liberties of the people, will rush, I am convinced, into your minds, and you will feel that detestation for the calumniator which fills my breast.

THE SIXTH LIBEL.

(Contained in Page 107.)

“ Having thus glanced at some of the
“ defects of the two Houses of Parliament,
“ I proceed to what is called the Crown,
“ upon which I shall be very concise :

“ It signifies a nominal office of a million
“ sterling a year, the business of which con-
“ sists in receiving the money. Whether
“ the person be wise or foolish, sane or in-
“ sane, a native or a foreigner, it matters not.
“ Every minister acts upon the same idea
“ that Mr. Burke writes, namely, that the
“ people must be hood-winked, and held in

“ superstitious ignorance by some bugbear or
 “ other ; and what is called the Crown an-
 “ swers this purpose, and therefore it answers
 “ all the purposes to be expected from it.
 “ This is more than can be said of the other
 “ two branches. The hazard to which this
 “ office is exposed in all countries, is not
 “ from any thing that can happen to the Man,
 “ but from what may happen to the Na-
 “ tion—the danger of its coming to its
 “ senses.”

This contains such an abominable, atrocious calumny on the monarchical office, that it will be unnecessary for me to detain you with any observations upon it.

THE SEVENTH LIBEL,

(Contained in Page 116 and 117.)

“ I happened to be in England at the
 “ celebration of the centenary of the Re-
 “ volution of 1688. The characters of
 “ William and Mary have always appeared
 “ to me detestable ; the one seeking to de-

" stroy his uncle, and the other her father,
 " to get possession of power themselves ; yet,
 " as the nation was disposed to think some-
 " thing of that event, I felt hurt at seeing
 " it ascribe the whole reputation of it to a
 " man who had undertaken it as a job, and
 " who, besides what he otherwise got, char-
 " ed 600,000l. for the expence of the little
 " fleet that brought him from Holland.
 " George the First acted the same close-
 " fisted part as William had done, and
 " bought the Duchy of Bremen with the
 " money he got from England, 250,000l.
 " over and above his pay as King ; and hav-
 " ing thus purchased it at the expence of
 " England, added it to his Hanoverian do-
 " minions for his own private profit. In
 " fact, every nation that does not govern
 " itself, is governed as a job. England has
 " been the prey of jobs ever since the revo-
 " lution."

This represents the Government as a mere
 job ; and that " England has been the prey
 " of jobs, ever since the Revolution."

THE

THE LAST LIBEL,

(Contained in Page 161.)

“ The fraud, hypocrisy and imposition of
 “ governments, are now beginning to be too
 “ well understood to promise them any long
 “ career. The farce of Monarchy and Aristoc-
 “ cracy, in all countries, is following that of
 “ Chivalry, and Mr. Burke is dressing for the
 “ funeral. Let it then pass quietly to the
 “ tomb of all other follies, and the mourners
 “ be comforted.

“ The time is not very distant when Eng-
 “ land will laugh at itself for sending to Hol-
 “ land, Hanover, Zell, or Brunswick, for men,
 “ at the expence of a million a year, who un-
 “ derstood neither her laws, her language, or
 “ her interest, and whose capacities would
 “ scarcely have fitted them for the office of a
 “ parish constable. If Government could be
 “ trusted to such hands, it must be some easy
 “ and simple thing indeed, and materials fit
 “ for all the purposes may be found in every
 “ town and village in England.”

This

This is the most flagitious of all that I have read ; for it contains a direct attack on the House of Brunswick, from which his Majesty is descended.

These, gentlemen, are the passages which I have selected. I do not chuse to contaminate my own tongue ;—I do not chuse to shock you,—or give pain to the feelings of the Court, by entering more at large into the infamous parts which are alledged in the information, as containing libellous matter.

I beseech you, gentlemen of the jury, to take into your consideration the phrase, the manner, and the matter. In my conception, it constitutes treason ; though, technically, that appellation cannot be attached to it. Having considered these circumstances, I request you to put your hands on your hearts, and declare, whether this is not that atrocious case which well deserves the character given of it in the information. I entreat you to say, whether this is not calculated to induce the people to throw off their allegiance to the King,

King, and to subvert the Constitution ;—a constitution that had been growing up since the invasion of *Julius Cæsar*, to the Revolution ; since which time it had shone forth in meridian splendor and glory. Well is that Constitution, gentlemen, called the collective wisdom of all ages,—the aggregate wisdom of all nations.

I have now, gentlemen, stated to you a few observations on the libels. I do defy any man in the kingdom to produce to me any work calculated, both with respect to tendency and execution, to produce more mischief, or consequences more injurious to the best rights of Englishmen. Unqualifiedly and undisguisedly he tells you, that the Government of Great Britain is complete tyranny and usurpation : he insists that there is no such thing as law.—Now, gentlemen, I put it to you, as thinking men, whether there ever was a more dangerous assertion. What is it but to tell twelve millions of people that they have no right to be restrained in the execution of any inclination which their own hearts

hearts might dictate. What is it but to attempt to overturn all the regulations of social life,---all the domestic duties,---every public, every private obligation ;---to reduce men to the savage state of nature ; in which state, abilities, and genius, all the active energies of the mind, were useless and unnecessary, and subjugated to the mechanical operations of strength and cunning, in which they would be excelled by many of the beasts of the field.

Gentlemen, you will find that Mr. Thomas Paine's aversion to monarchy is such, that he absolutely denies all merit to it. In his opinion, not one advantage can result from it. Kings must be bad, merely because they are kings. Noblemen must be enemies to their country, from the single circumstance of their belonging to the aristocratic part of the Constitution. Democracy is his sole delight. To democracy are all his raptures confined ; ---to democracy is to be attributed all the advantages that have accrued to man from the foundation of the world.

Gen-

Gentlemen, you must be sensible that this Constitution possesses a very powerful infusion of democracy, and it properly possesses it; but our Government is not entirely democratic; God forbid that it should be! An author, not very much read now, *Hobbes*, speaking of a democracy, delivers these sentiments: "A democracy is an aristocracy of orators, interrupted sometimes by the monarchy of one orator."---The observation is somewhat quaint, but it is nevertheless just.

In indulging his invective against monarchy, Mr. Paine has quite forgotten, or was perhaps ignorant of every wholesome provision made by the law for restraining the power of the Crown, and for providing for particular emergencies in the case of kings who were minors, regents, &c. &c. Had he been acquainted with these provisions, he would have known, that in no possible case could the people experience any inconvenience on account of the monarchical system.

Gentlemen of the jury, Mr. Paine abuses all hereditary monarchy. What are the advantages of an elective monarchy? I, Gentlemen, would ask any man who hears me, in point of history, whether it is not the prominent effect of elective monarchy, that they very seldom are men of consideration, and most frequently of turbulent factions, after having disturbed the country? Often has it happened, too, that when there are foreign and civil wars, they have always chosen very weak persons, in the hope of strengthening their own party; that will be found, I believe, on examination, to be the question with respect to elective sovereignties; and to have prevailed greatly, more than any inconvenience that may have arisen from the natural forms of hereditary rights.—Look at Poland: well has it been said,

"The Crown of Poland, venal twice an age."

There, elective monarchy produces consequences most injurious to the liberties of the people ;---there, indeed, the Crown has often

D . been

similar to George Eliot's (c e)
(28)
one particular passage

been waded to through seas of blood. Gentlemen, in recurring to Poland, it is impossible that I should avoid mentioning the present monarch of that country. That great man was educated in this kingdom. Here it was, that he imbibed those principles of freedom which led him, when he mounted the throne of Poland, to attempt the liberation of his subjects from the tyranny and oppression of the feudal lords. He has been opposed and thwarted by the unjustifiable interference of the Empress of Russia; but his name will be handed down to posterity with honour and applause.

I beg leave to read to you a few extracts from a work written by Mr. Adams, an American gentleman, in answer to Mr. Paine. This, in my opinion, successfully attacks the most daring assertions of the defendant. [The Attorney General read a few extracts.]

Gentlemen, I shall not trouble you with any additional observations. Those I have made resulted not from any idea of your incapacity

capacity to decide the case, but from a sense of that duty, the execution of which my King and my country have a right to claim from me. They have a right to claim it, and I perform it with satisfaction, and with pleasure.

I shall produce evidence to prove Mr. Paine to be the author of the publication called The Rights of Man, and to shew you *quo animo* he wrote that work.

I have letters addressed to Mr. Jordan, his publisher, whom he addresses in this way:

February 16, 1792.

“ For your satisfaction and my own, I send
 “ you the inclosed, though I do not apprehend there will be any occasion to use it;
 “ if in case” (which is not much the style of a man of letters) “ there should, you will
 “ immediately send a line for me, under cover, to Mr. Johnson, St. Paul’s Church-
 “ yard, who will forward it to me, upon
 “ which I shall come and answer personally
 “ for the work; send also for Mr. Horne
 “ Tooke.
 “ T. P.
 “ Mr. Jordan, 166, Fleet-Street.”

February 16, 1792.

" SIR,

" Should any person, under the sanction
 " of any kind of authority, enquire of you
 " respecting the author and publisher of the
 " RIGHTS OF MAN, you will please to men-
 " tion me as the author and publisher of that
 " work, and shew to such person this letter,
 " I will, as soon as I am acquainted with it,
 " appear, and answer for the work person-
 " ally.

" Your humble servant,

THOMAS PAINÉ.

" *Mr. Jordan, 166, Fleet-Street.*"

Mr. Paine also transmitted me a letter from Paris, dated the 11th of November, 1792. It contains the most impudent calumnies on his Majesty and his sons; and in it I am particularly desired by Mr. Paine to read it to you.

Mr.

Mr. ERSKINE, *Council for the Defendant.*

I beg leave to submit to the court, that the Attorney General has no right to read the letter. If it contains libellous matter, another information may be filed against Mr. Paine. I conceive that a libel contained in one book cannot operate against a libel alledged to be contained in another book.

LORD KENYON.

If the letter offered in evidence by the Attorney General tends to prove that Mr. Paine is the author of the Second Part of the Rights of Man, the law renders it obligatory in me to admit it in evidence. [*The letter was read as follows:*]

“ TO THE ATTORNEY GENERAL.

Paris, 11th November.

First Year of the Republic.

“ SIR,

“ In addressing this letter to you, I address you in no other character than as a friend.

“ friend. With respect to the information
“ filed against me, I cannot conceive it to
“ be any concern of mine. Whatever be
“ the event, it cannot affect me in any other
“ way than to add to the sale and conse-
“ quence of the work alluded to. For my
“ own part, I consider the impending trial,
“ not as a trial between the Government of
“ England and myself,—but as a trial be-
“ tween the Government and the people of
“ England. If, therefore, a verdict should
“ be given against me, (which consequence
“ cannot be produced if the jury be not
“ packed,) I shall as little regard it as the
“ man in the moon.

“ If I had had leisure during the time I
“ was in England, I would have published
“ some observations on the criminal infor-
“ mation filed against me. As it is, I mean
“ to defer those observations till the trial is
“ concluded.”

[Part of the letter was replete with most violent invectives against our gracious Sovereign and his sons.---We will not disgrace our report by a repetition of those calumnies, but only add the conclusion.]

“ That you cannot obtain a verdict (and if “ you do, it will signify nothing) without “ packing a Jury (and we both know that “ such tricks are practised) is what I have very “ great reason to believe. I have gone into “ coffee-houses, and places where I was un- “ known, on purpose to learn the currency of “ opinions ; and I never yet saw any company “ of twelve men that condemned the book, “ but I have often found a greater number “ than twelve approving it ; and this I think “ is a fair way of collecting the natural cur- “ rency of opinion.

“ Do not then, Sir, be the instrument of “ drawing twelve men into a situation that “ may be injurious to them afterwards. I do “ not speak this from policy, but from be- “ nevolence ; but if you chuse to go on with “ the process, I make it my request to you,

“ that you will read this letter in court ; after
 “ which the Judge and the Jury may do as
 “ they please.—As I do not consider myself
 “ the object of the prosecution, neither can
 “ I be affected by the issue, one way or the
 “ other. I shall, though a foreigner in your
 “ country, subscribe as much money as
 “ any other man, towards supporting the
 “ rights of the nation against the prosecution,
 “ and it is for this purpose only that I shall
 “ do it.

“ THOMAS PAINE.

“ To Archibald Macdonald,
 “ Attorney General.”

“ As I have not time to copy letters, you
 “ will excuse the corrections.

“ P.S. I intended, had I staid in England,
 “ to have published the Information, with my
 “ remarks upon it, before the Trial came on ;
 “ but as I am otherwise engaged, I reserve my-
 “ self till the Trial is over, when I shall
 “ reply fully to every thing that you shall
 “ advance.”

T. P.

The Attorney General was exceedingly agitated when he read that part of the letter which related to his Majesty.

I have, Gentlemen, complied with this request, painful as my feelings were on the occasion. When he says, I shall offer my reasons for this letter, I do not think Mr. Paine acts either fair or candid with mankind : I do not think it a fair conclusion in Mr. Paine, that men who are quiet in obedience to the laws of the country, decently, and I hope with a moderate share of reputation, I do not think that a considerate man of that sort is just, a very likely man to be thrown off the hinges ; but if any of those *assassins* are here, or in London, and there is really some doubt with some people on that subject ; I, for one, think, Gentlemen, that a man's dying in discharge of his duty, is just as good a way of dying as dying of a raging fever, or in a fit of the gout or stone. He says, " the government of England is as great, if not the greatest production of fraud and corruption that ever took place in any government ;" and that, " he who does

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" not

" not observe it is blind." Upon my word, Gentlemen, I am stone blind then. " But though you may not chuse to see it, &c." Now, Gentlemen, this is contemptuous, scandalous, false, prostitute, profligate.—Why, Gentlemen, is Mr. Paine, in addition to the political doctrines that he is teaching us in this country, is he to teach us impeccability? is he to teach us human creatures, whose momentary existence depends on a Being, merciful, long-suffering, and of great goodness, that those errors, from which even royalty is not excepted, are to be detailed at great length, and are all to be mentioned in language shocking for our ears to hear, and I am sure disgusting to our hearts? No man, that is not a barbarian and a beast, would wish to destroy that great security of all human laws and constitutions, the Christian Religion.— Gentlemen, there is not, perhaps, in the world, a better rule to judge by in domestic matters. A family is a small kingdom; a kingdom is a large family. Judge for your selves, Gentlemen, of the good heart of this man, who thrusts into my hands, who am,

if not an useful, at least a grateful servant of a kind master, the slander of that master, and the slander of his children ; what will be your verdict with respect to his heart ? He says, " I observe to you as one man ought to speak to another." Does he speak of him and his family as one man should speak to another ? and I should have forgot my duty to that master if I forgot to prosecute him as a violator of the law of the land.—He says, " I know, " also I speak what people feel, that you can- " not obtain a verdict, and if you do it will " signify nothing, without packing a jury ; " and we both know that such facts are prac- " tised." Gentlemen, I know of no such facts ; I know of no such practice ; I know the very contrary of those facts or practices ; and I know that this letter was intended for future publication. Gentlemen, he says, " I have gone into coffee-houses and " ale-houses, where I was unknown, and " where there is a currency of opinion, and " I never yet saw any company of twelve " men that condemned the book, but a greater " number than twelve approving it. Now,

Gentlemen,

Gentlemen, whether the sense of the nation is to be taken from the opinions of pot-houses and ale-houses, or the adherents of such places, you are to judge. Gentlemen, I will give you a thousand guesses to judge of his motive ; but he says, it is from benevolence : He further says, " I desire you will read this letter " in court." Gentlemen, I have done so ; " After which the Judge and Jury may do as " they please." He says, " I would have published the Information, with remarks upon " it; but I now will wait till the trial is over, " and then I will make some observations." I hope in God, Gentlemen, he will not omit one single word that I have said this day.— At present I do not think I need trouble you any further. I can have but one opinion, which is, that the mischievous tendency of the book is, that which I have taken the liberty to enlarge upon ; and that such will be your verdict. However, I have done my duty, in bringing before you an offender of this sort ; be the event what it may, I am satisfied in having placed the public under the shield of your protection.

Some

Some other letters were produced, and proved to be in the hand-writing of Mr. Paine. One related to a transaction with Mr. Chapman, a printer, who first offered him 100*l.* and at last 1000*l.* for the copy-right of the Rights of Man.

The Attorney General read the contents of a third letter, which he had received from the second person in America, (Mr. Adams.)---

" Having had the honour of his acquaintance," the Attorney General said, " I wrote to him relative to the prosecution, and in answer I was informed, that it was the wish of THOMAS PAINE to convene the people of Great Britain, who had neither Government nor Constitution, for the purpose of prevailing upon them to adopt a constitution similar to that of France, and to establish a Government proceeding directly from the sovereignty of the people. Mr. Paine had also called on the citizens of America, to rally round him, in order to afford assistance to Great Britain, in the completion of a revolution."

These facts were admitted by Mr. Erskine.

The EVIDENCE.

THOMAS HAY produced the book, which he bought at Jordan's, the bookseller, in Fleet-Street, on the 16th of February, 1791.

Mr. CHAPMAN,
Examined by the ATTORNEY GENERAL.

I am a printer. I became acquainted with Thomas Paine, who was introduced to me, to employ me as a printer of the *First Part* of the *Rights of Man*. I printed that book, and great part of the *Second Part*. But I relinquished printing the rest, on account of the *mischievous tendency* of the work. On the 17th of January last, Mr. Paine called upon me late in the evening; he had been dining with Mr. Johnson, in St. Paul's Church-Yard, and was very much intoxicated in liquor, and introduced his favourite topic of conversation, religion.— He indulged himself in much abuse of it, and compared me and my wife, who are dissenters, to a whitened sepulchre, fair on the outside, but in the inside nothing but putrefaction and dead

dead men's bones. The subject of debate running very high, Mr. Paine at last came to personal abuse. An observation was made by Mrs. Chapman, at which Mr. Paine was greatly offended, and said he had not been so much affronted in the whole course of his life. He rose in a great passion, declaring, that as the witness was a dissenter he had a bad opinion of him, as they were a set of hypocrites. Mr. Paine told the witness he wished to settle with him, on which he withdrew from the house in a great passion, but called the next morning and made many apologies for what he had said; that it was the effect of liquor, and wished him to go on with the work, but the witness would not, on account of the evil tendency. The witness said he had seen Paine write, and thought he should know his hand writing. He looked at several letters signed Thomas Paine, and believed they were the hand-writing of the defendant. One of these letters empowered Mr. Jordan of Fleet-street, who was the publisher of this work, to declare, that if any person enquired who was the author of the work, to say, he, Paine, was the author.

author. Others of these letters were, that written from Paris to the Attorney General, and also orders to Mr. Chapman to deliver copies of the Rights of Man to Mr. Jordan.

Cross-examined by Mr. ERSKINE.

Have you not been tampered with by persons high in office, who employed you to purchase the work for the purpose of suppressing the publication of it?

Witness. Before I discovered the *mischievous* tendency of the work, I offered 100l. for it.

Mr. Erskine. Did you not offer a larger sum afterwards?

Witness. I did. The sale of the First Part had increased, and it had *escaped* a prosecution; I offered five hundred guineas.

Mr. Erskine. Upon your oath, did you not offer double that sum?

Witness. I did; I offered one thousand guineas.

ANDREW

ANDREW MILNE,

(Examined by Mr. BALDWIN.)

Said he was Shopman, and lived with Mr. Jordan about the year 1791; that he has seen Mr. Paine at Mr. Jordan's, at different times, most frequently about money; that he has, by Mr. Paine's directions; gone on messages to various printers, and in particular about the Second Part of the Rights of Man. That after Mr. Chapman declined to print a part, he has, by an order from Mr. Paine, gone to Mr. Crowder, who finished it, and as such, knew as well as on former occasions, when Mr. Paine has been with Mr. Jordan, that he, Mr. Paine, was the author.—That he has also seen Mr. Paine in company with Mr. HORNE TOOKE, at Mr. Jordan's.—Has also seen money paid by Mr. Jordan to Mr. Paine on account of *this book*.

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JOHN

JOHN PERDUE,

(Examined by Mr. WOOD.)

Said he was formerly acquainted with Mr. Paine when he was in the excise, and before he went to America. A letter was shewn him, which Mr. Paine wrote to Archibald M'Donald, Esq. his Majesty's Attorney General. The witness said he believed it was the hand-writing of Mr. Paine. This letter was dated Paris, Nov. 11th, first year of the *Republic*. There were passages in this letter, reflecting on the ROYAL FAMILY of England, which *delicacy* forbids us to mention, and which even Mr. Erskine, though Council for the defendant, did not pretend to justify.

Mr. BOILOW.

I was acquainted with Mr. Paine; he was in the excise. I know his hand-writing, and I think the letters to be written by him.

The

The libellous passages inserted in the information were now read.

The evidence on the part of the prosecution being ended,

The DEFENCE of THOMAS PAINE

Was entered upon by Mr. ERSKINE, in the following words :

Gentlemen of the Jury,

I cannot enter into a defence of THOMAS PAINE, till I have troubled you with a few observations on the peculiarity of the situation in which I, his advocate, stand at the present moment.

Gentlemen, you have heard a letter read to you by the Attorney General, which he received from my Client, who is in Paris.

You

You all observed the emotions which agitated my learned friend while he read it,
With truth might he exclaim in the language
of the poet,

" Alas, I feel I am no actor here ! "

He could not but abhor the gross attack made upon his Sovereign, whom such attacks could never injure in the minds of his people. But, gentlemen, if the Attorney General felt such embarrassment, what ought I, what do I not experience myself! I stand in the same situation as my learned friend, in respect to another great personage, alluded to in the letter; that personage I serve in an official capacity; I esteem him, I admire, I love him. But, greatly as I do esteem him, much as I do admire his virtues, I have still resolved to perform my duty to my Client, THOMAS PAINÉ. I will perform that duty; I will perform the charge committed to my care.

And

And one word on a particular circumstance: you, gentlemen, will acknowledge with me the right of every Englishman to a fair and impartial trial. You will confess that Mr. Paine would have had ample reason to complain, if any partiality had been shewn in the proceedings against him: he would have had ample cause for his invective, if I, his advocate, had seceded from his cause, on account of menaces or threats,---on account of public detraction, or any injury that might accrue to my private interest. Gentlemen, if I had withdrawn my assistance, I should have considered myself as the basest of mankind, and unworthy any estimation or good report in society. But I never intended to relinquish his defence: I will not relinquish it.

I must lament, that the Attorney General deemed it necessary to read the letter he received from Paris. It ought to have been made the subject of a distinct prosecution, for I contend that it does not bear at all upon the present case. It was written a long time after

the publication of the Rights of Man, when the author was in France. The learned Judge admitted it to prove the evil intention, the *quo animo* with which Mr. Paine wrote the Rights of Man. But does it prove the *quo animo*? It does not. It contains most scandalous invectives against a beloved Monarch and his respected sons. The effect produced on your minds by them was apparent;—I hope it was also apparent what effect they produced on mine. But that is not the present libel on which you are to decide. I am here not as the advocate of THOMAS PAINE, writing the letter to the Attorney General, but as the advocate of THOMAS PAINE, writing the second part of the Rights of Man. And here I must contend that the Attorney General has failed in a most material proof. In all prosecution for libels the evil mind of the author must be shewn. Has my learned friend shewn it? Has he proved one malignant fact? Has he adduced one piece of evidence to convince you of the wicked, seditious spirit of the defendant. He has produced only the letter to himself, which I deny

I deny to have any bearing upon the present case.

In the exordium of his speech, the Attorney General has spoke of a report that has been circulated of his unwillingness to prosecute the defendant. He has thought it necessary to do away that report, limited as the circulation of it must have been—But to compare my own situation with that of my learned friend, what must be my situation, who stand up in defence of THOMAS PAINE ? Gentlemen, in consequence of my having undertaken the defence of this man, the most audacious imputations have been cast upon me. I have been calumniated, abused, described as disaffected to the Constitution, and as concurring in all the doctrines of Mr. Paine : and not alone have I been thus calumniated ; all who wish for a reform of the abuses of the constitution are implicated in the calumny, and considered as entertaining a wish to subvert the constitution, and to destroy all order and subordination.

To

To such aspersions I make no answer ; I treat them with the contempt they merit, and I shall consider myself bound to defend THOMAS PAINÉ, without making myself a party in his doctrines. Oh, gentlemen, where would the Constitution be, if advocates were only to consult their inclinations, their foibles, or their virtues ? It would be gone. Every case would be pre-judged, and there would be no occasion for the assistance of a jury in any case.

I have therefore, as I have before stated, despised every calumny thrown out against me, resolved, while the breath of life shall remain—while the energies of my body and the organs of my mind remain unimpaired, to defend the equal right of every man in this realm to an impartial trial.

And now, gentlemen, having troubled you with these observations, which, under the present circumstances, I have deemed necessary, I proceed to the defence of my client. I conceive that you are not called upon to decide whether

whether one form of government be better than another—whether the English Constitution be preferable to the American or the French Constitution ; you are to try whether the publication has been written and sent into the world conformable to the law of the land.

I will indulge a supposition that you all entertained republican doctrines—that you applauded the doctrines of Mr. Paine. Still, however, if on evidence it should be proved to you that such doctrines were inimical to the peace of the country, then I say that you ought to find Thomas Paine guilty. If they should be proved to be not inimical to the peace of the country, then you would be bound to acquit him. Whatever therefore may be his opinions, with those you have nothing to do. Every man has a right to exercise the liberty of thought and opinion. The Law of England takes cognizance of opinions, only as they influence the conduct of men. His Lordship will, I am sure, inform you that this

position is strictly just. He will tell you, if it be necessary, that though all that Mr. Paine has said be false—that though the tendency of his book be to injure the Constitution, yet if he has not gone beyond the limits of the press—if he has offered doctrines for the mere purpose of discussion, then you must not pronounce him guilty,—you must be well assured of the evil intention—you must be well convinced of the malignancy of the heart—you must be well persuaded that he wrote the book with the dishonest purpose of promoting discontent and discord.

Of the numerous duties attached to the office of an advocate, this is one : If his sentiments disagree with those of his client, the law does not require that he should disclose them ; if on the contrary they are congenial, that congeniality must be declared : before, therefore, I proceed in my statement, I feel it necessary to make before you my political test. **I admire, love, and will support the British Constitution—I love the monarchic, the aristocratic**

stocratic and the democratic part of it. The juncture of these three parts I reverence. I view the wonderful whole as a production the best calculated to ensure the peace and prosperity of men that ever was devised by human wisdom or human ingenuity : but the unanimous applause of the whole world cannot be attached to any human institution. You, gentlemen, and I, may entertain different opinions upon one point: and herein consists the freedom of the press : if I disapprove of any measure, I am at liberty to discuss it—I am at liberty to publish to the world my opinion upon the English Constitution, or any other Constitution, whether that opinion be favourable or unfavourable to it—I am at liberty to take a retrospective view of the causes of any particular establishment. If I disapprove of these causes, I may state my disapprobation. If tracing the progress of effects resulting from these causes, I have reason to imagine that they are inimical to the peace and happiness of mankind, I may still declare my sentiments. If, in addition to this, I suppose that the re-

mote

mote effects of such causes are bad, I may say so, without throwing myself under the displeasure of the law. But if all these discussions originated in a *nefarious motive*, in a wish to *engender tumult*, or to *generate sedition*, then I acknowledge that a criminal information may be filed against me. A criminal information may be filed against me, when I attempt to disturb the order of society, and to act like the wretched man who yesterday declared, that in publishing the hand bill in the Fleet-prison, he intended to excite insurrection, and to produce the liberation of those whom the laws have thought proper to place in a state of confinement and deprivation of personal liberty. Did the publication of Mr. Paine contain such declarations, so injurious, so wicked, I could have no ground on which to defend him ; but I contend that it does not contain such declarations. Not one passage that could justify the idea of the evil mind of the author has been adduced. The Attorney General has placed several extracts from the book on the record, but you are not to attend solely to these extracts ;

tracts; you must consider the context, you must deliberate upon what precedes each passage and what follows it.

Gentlemen, I have said that no proof has been adduced of the evil mind of the author. I say so still. I think I can prove that Mr. Paine had no evil intention in publishing the Second part of the Rights of Man. You, gentlemen, who are men of extensive reading and information, cannot but know that the preface to any work discloses the view of the author in writing such work. Without one more observation on this position, I hasten to the preface, which contains the following words:

“ If a law be bad, it is one thing to oppose the practice of it, but it is quite a different thing to expose its errors, to reason on its defects, and to shew cause why it should be repealed, or why another ought to be substituted in its place. I have always held it an opinion (making it also my practice) that it is better to obey a bad law, making use at the same time
of

of every argument to shew its errors and procure its repeal, than forcibly to violate it; because the precedent of breaking a bad law might weaken the force, and lead to a discretionary violation of those which are good.

“ The case is the same with respect to principles and forms of government, or to what are called Constitutions, and the parts of which they are composed.

“ It is for the good of nations, and not for the aggrandizement of individuals, that government ought to be established, and that mankind are at the expence of supporting it. The defects of every government and constitution, both as to principle and form, must, on a parity of reasoning, be as open to discussion as the defects of a law, and it is a duty which every man owes to society to point them out. When those defects and the means of remedying them are generally seen by a nation, that nation will reform its government or its constitution in the one case, as the government

re-

repealed or reformed the law in the other. The operation of government is restricted to the making and the administering of laws ; but it is to a nation that the right of forming or reforming, generating or regenerating Constitutions and Governments belong ; and consequently those subjects, as subjects of investigation, are always before *as a Matter of Right*, and cannot, without invading the general rights of that country, be made subjects for prosecution."

Now, gentlemen, from this extract I contend that you can collect the *quo animo* of Mr. Paine. He declares, that it is better to obey a bad law, than to break it. But he contends that it is at the same time the duty of every man to use every argument to shew its errors and procure its repeal. And herein I agree with him. It is by the liberty of discussion that our Constitution has attained that pre-eminence and perfection which cannot be equalled in the annals of any nation.

In the case of the Dean of St. Asaph the trial was postponed on the ground that some doctrines had been circulated, that were calculated to prejudice the minds of the jurors. Similar doctrines have preceded this trial. Associations have been formed to anathematize the defendant, and hand-bills and pamphlets have been distributed representing him as the most wicked and abandoned of the human race. I therefore contend that the cause of my client is prejudged, and that these associations have united for the purpose of an improper and very reprehensible interference in the progress of justice. From those prejudices, from those prepossessions against Mr. Paine, I must beseech you to be entirely free. I must represent to you, that you ought not to be supposed to know any thing of the defendant before the commencement of the trial. These, gentlemen, are your duties. As jurymen you are supposed to be demigods, equally raised above the frailties and weaknesses of human nature.

And

or And now, gentlemen, with respect to the letter that has been read to you. I am of opinion that it is adduced now for the purpose of embarrassing you who are the jurors, and me who am the advocate. You must therefore banish it from your minds, and act as if no such document had ever been produced.

Gentlemen, it has been said by Mr. Paine, that "When a nation changes its opinions and habits of thinking, it is no longer to be governed as before; but it would not only be wrong, but bad policy, to attempt by force, what ought to be accomplished by reason. Rebellion consists in forcibly opposing the general will of a nation, whether by a party, or by individuals." These are the sentiments of Mr. PAINE—these are my sentiments—these are the sentiments of the law of this country—and I am happy to say, that they are the sentiments of the heir apparent to the crown of these realms.

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Gentlemen,

Gentlemen, it will be necessary for me to evince to you the *quo animo* with which the book was written, by a reference to the former part of the life of Mr. PAINE. In that war, the remembrance of which must make us all shudder, Mr. PAINE bore a conspicuous part—he wrote against the English Constitution, and defended the Americans. Mr. Burke, that celebrated character, of whom I cannot speak otherwise than with great respect, had then, in a pamphlet called “Thoughts on the Causes of the Present Discontents,” highly applauded the conduct of Mr. Paine. From that period Mr. Paine has acted consistently. Mr. Paine inveighs against the system on which the Constitution is founded. He is of opinion, that the faults inherent in it will produce its decay. I, on the other hand, am of opinion, that it possesses in itself those seeds, that will purge it of its diseases and disorders.

In

H

In the American war Mr. Burke fought under the same banner with Mr. Paine. The latter has not relinquished his former habits of thinking, which I believe have proceeded from a mind *conscia recti*—and persuaded of the justice of those habits. Mr. Paine's works contributed to produce the revolution in America—they certainly contributed also to produce the revolution in France, whose old system of government was the most abandoned and despotic that ever disgraced the annals of the world. To me it is not a wonder that such a Government was overthrown—it is only a wonder that it should have been suffered to exist so long.

There is no complaint, gentlemen, of Mr. Paine's former works during the American war—and what have produced the Rights of Man?—Mr. Burke. He it is who has been the cause of all those publications, by his outrageous attack upon the French Revolution—the people of this country were perfectly quiet—they rejoiced in the overthrow

of despotism, and Mr. Burke saw the joy with anger and displeasure—he wrote a book then, which no one ever contained more erroneous doctrines. You cannot but recollect, gentlemen, that this work asserts, “that King’s rule in contempt of the people—“ that we are bound for ever—and that no right is inherent in us to alter any of those principles which were established at the revolution.” Mr. Burke, gentlemen, has totally mistaken the principles established at the revolution. The revolution gave the constitution to the people, not that it should at no time be altered, but that it should not be altered without mature deliberation, and mature reflection. Mr. Burke, however, denies this—he anathematizes all who dare to look at the Constitution with the eye of reformation. “Reform it,” he says—“No, it wants no reform—it is all perfect—all compleat—all excellent—you have not the power of altering it—it is buckled on you, for you are beasts of burthen,” “a swinish multitude.” “It is given you, and you are damned

" damned to all eternity if you dare to
" touch it."

Mr. Paine's Rights of Man were published in reply to these abominable doctrines, which I have the satisfaction of believing are gone now " to the family vault of all the capuchets."

Gentlemen, a system of Government that is to last to all eternity, ought not to be bound round men. Mr. Burke even thought so once himself, in " His Thoughts on the Causes of the present Discontents,"—and following the position of Blackstone, of Locke, of Archdeacon Paley, had asserted once that the people do possess an inherent right to correct that, which by experience is discovered to be injurious to the happiness of mankind. What reason *the consistent* Mr. Burke can give for the derelection of his former sentiments, I cannot pretend even to divine. Those only, who like him, can adopt or relinquish an opinion at pleasure, can find a pretext for conduct such as this.

Gentlemen,

Gentlemen, I intreat you in the most serious and solemn manner, not to decide with haste on this most important question—ere you damn by *bell, book and candle*, THOMAS PAINE. Think that your opinion will implicate in it, an authority for future decisions—Do not proceed on the old *datum*, with respect to libels—there is a new law by which you are bound to consider what are the principles of freedom. Eight years ago LORD MANSFIELD, who though he could not treat me with unkindness, for it was not in his nature, laughed at me for this assertion. It proceeds now from the law, and the legislative wisdom of the Constitution has defended my opinion, in contradistinction to that great luminary who preceded the present Chief Justice of the King's-Bench.

Do not take Mr. Burke for your guide—do not believe with him, that we have not the power to alter and to amend, and consequently, that the operation of thought is unnecessary. Oh reflect on the progressive establishment of all the social duties! re-

remember

member

member that man roamed once the woods in a state of savage ignorance—that from this condition, miserable indeed, he withdrew himself to live in cities, and to subjugate himself to laws, that were made to prevent the depraved from injuring the virtuous—if no right of alteration had been vested in him, still would he have remained a wretched creature.

— Condemn'd in woods to roam,
And find, oh state of woe! no place his home !

The people have, by their own efforts, acquired many privileges, but the liberty of the press has been more slowly obtained than any other. The liberty of the press has been always restrained by tyranny and despotism, because by that restraint could tyranny and despotism alone exist. Oh, gentlemen, remember how tardy the progress of truth has always been—recollect the miserable fate that attended the Saviour of the world—he visited us clothed in humility—he preached the doctrines of reason and of peace, but they were not heard—and he suffered for them on the

the cross—a set of designing artful priests had seized the public mind, and governed it with a rod of iron—religion was made use of by political power, as an engine of oppression, to degrade God's own image, rational immortal man.” You will not forget the miseries of the dark ages of the world, when superstition and tyranny

Clasp'd in their iron fangs the human race,

While you remember these miserable events, you cannot forget the origin of the liberty of the press—that liberty continued unimpaired 'till the year 1637, when the infamous Star Chamber was established—the consequences of this establishment are well known. In 1648, Charles the first suffered on the scaffold. From this circumstance you will naturally deduce this position, that the human mind cannot be restrained in its operations for any great length of time. Constraint produces the same effect as a subterraneous fire in the natural world, which long confined,

fined, bursts out at length an earthquake or volcano. Cromwell attacked the liberties of the press, and his Government was enfeebled by it in such a manner, that it was destroyed by the restoration of Charles the Second. That monarch did not decrease the restraint, which at length produced the revolution. All the miseries, gentlemen, that have accrued to this Constitution, have been produced by the restraints on the Liberty of the Press. In the glorious Milton's Treatise, called *Areopagitien*, or speech on the liberty of unlicensed printing, he says, " In former times " the issue of the brain was no more stifled " than the issue of the womb—Galileo perish- " ed in a prison, because he ventured to think " from observing the phases of Venus, that " the sun was in the center of our system." Yet experience has proved to us, that Galileo was right in his conjecture. The opinion of Hume, of Lord Chesterfield, are decidedly in favour of the Liberty of the Press. The memorable declaration of the latter cannot be forgotten by you.

I

LORD

LORD KENYON,

I thought, Mr. Erskine, that a biographer of Doctor Johnson had proved his Lordship to have no property in this declaration—and that it belonged to Doctor Johnson.

Mr. ERSKINE.—I thank your Lordship for your correction, which has given me an authority of a higher nature—Doctor Johnson's opinion then is, that “ There is “ such a connexion between licentiousness “ and liberty, that it is not easy to correct “ the one, without dangerously wounding “ the other; it is extremely hard to distinguish the true limit between them; like “ a changeable silk, we can easily see there “ are two different colours, but we cannot “ easily discover where the one ends and “ the other begins.

But, gentlemen, there are men who entertain very different opinions of the liberty of the press—that this liberty is to be all on one

one side—on the side of Administration. In Russia, gentlemen, there is great liberty of the press, provided you bestow nothing but praise on the good Empress.

I shall now enter into a brief consideration of the libellous matter with which the information is charged.

In the first libel * it is alledged, that Mr. Paine has asserted all hereditary Government to be tyranny. Now, gentlemen, look at the context, and you will find that Mr. Paine qualifies this assertion, by saying, that the Monarchy of England is not hereditary—if therefore all hereditary Government be tyranny, but if the English Monarchy is not hereditary, *then I contend*, that this is a sufficient answer to the allegation in the information.

The second † passage is a curious one—
The Revolution was a most glorious event,
but

* Page 21 of the Second part of Rights of Man.

† Page 52 of the Second Part.

but it was not less glorious, even though it had been accomplished by the vilest of mankind. The Reformation was most beneficial to the nation, but was it ever alledged against it, that it had been brought about by the most abandoned of Kings?—No—I therefore must contend, that this passage contains no libel on the Constitution.

The third ‡ is, that there is hardly any law in England—Now this appears to me to be no libel, for it has been allowed by the best writers, that there is much to be altered and amended in the system of our Jurisprudence.

The fourth * passage relates to the Houses of Parliament, but this, surely, could be no crime.

And now, gentlemen, I come to the conduct of those who have associated. They have

have abused THOMAS PAINE in a manner more gross than ever murderer had been abused before. Those who have not joined in the abuse, have been considered as disaffected to the Constitution, and as entertaining wishes subversive of the Constitution. But those associators, in their abuse of THOMAS PAINE, have unthinkingly, and certainly unwillingly, compared him to a man of high character, to the author of the Oceana, Harrington. Perhaps, gentlemen, you may not know who this Harrington was. If descent can confer honour on man, this Harrington was descended from seven dukes, three marquises, eight earls, twenty-seven viscounts, and thirty-six barons. In Germany this would have been a sufficient justification for any crime. This Harrington was the servant, the trusted servant of a King, who placed confidence in him, though he knew his republican attachments: and the confidence of Charles the First was not ill placed. When that unfortunate monarch was condemned to the scaffold, Harrington

resolved

resolved to see him before his death. He came to London in the boot of a coach, ascended the scaffold, fell into his master's arms, and fainted.—His Oceana was written after Charles's death: it came into the hands of Cromwell. Harrington applied to Cromwell's favourite daughter, to procure the restoration of his work. He adopted a singular expedient; he seized her child, and run away with it. When the mother pursued him to recover it, he gave the child to her, and entreated her to use her interest with her father to procure the restoration of his offspring. The daughter succeeded, and Cromwell restored it to him, saying, that his government was too strong to be battered down by paper shot.

Gentlemen, my address draws now towards a conclusion.—Englishmen are not to be forced from any particular pursuit by coercion or violence.

Be to their faults a little blind,
Be to their virtues very kind,
Let all their thoughts be unconfined,
And clap your padlock on their mind.

En-

Englishmen act from love, from esteem, from reason, from conviction, but from force never. To endeavour to convince them of any error by an appeal to power, is as ridiculous as the story of Jupiter told by Lucian.

“ Jupiter and a countryman were walking
 “ together, and their sentiments on the affairs
 “ of heaven and earth coincided for some
 “ time. At length the countryman ventured
 “ to doubt. Jupiter immediately flew into
 “ a violent passion, and threatened the poor
 “ countryman with his thunder. ‘ Now,
 “ Jupiter,’ replied the countryman, ‘ there
 “ you are wrong; you are always wrong,
 “ when you seek to convince by your thun-
 “ der.’—

[*Mr. Erskine's admirable speech occupied above four hours in the delivery.*]]

The ATTORNEY GENERAL
 was about to reply, when the Foreman of the
 Jury declared that there was no necessity for
 a reply

a reply from the learned gentleman, or for a summing up on the part of the Judge. The Jury were perfectly convinced that the defendant,

THOMAS PAINÉ,

W A S

G U I L T Y

OF THE

C H A R G E S

ALLEGED AGAINST HIM.

The Public will be pleased to observe, that this Edition has been examined, corrected and considerably improved from any former, and contains the most explicit Evidence which came out on the Trial,

